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JUN 09 2005

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WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT, LOUISIANA

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF LOUISIANA

SEC P

Kevin Cole  
(Name of Petitioner)

08044-062  
(prisoner or file number)

**CV05-0996 A**

VS.

Case Number JUDGE DRELL

Fredick Menifee, Warden, USP Pollock  
Name of Respondent

MAGISTRATE JUDGE KIRK

APPLICATION FOR FEDERAL WRIT OF HABEAS CORPUS  
UNDER 28 U.S.C. §22

1. Present place of confinement USP Pollock
2. Indicate the basis for your petition and complete the portions of the application form indicated:
  - a.          A conviction.
  - b.          A sentence. CAUTION: If you are attacking a sentence imposed under a federal judgment, you must first file a direct motion under 28 U.S.C. §2255 in the federal court which entered the judgment.
  - c.          Prison discipline.
  - d.          A parole problem.
  - e.          A detainer placed by the State of
  - f.          A deportation order or detainer placed by the Immigration & Naturalization Service.
  - g.          Continued detention in the custody of the Immigration & Naturalization Service.
  - h.   X   Other Sentence Computation

3. PERSONS CHALLENGING A FEDERAL CONVICTION OR SENTENCE COMPLETE THIS PART.

- a. Name and location of court which entered judgment of conviction and the sentence you are currently serving and which is currently under attack. Northern District of Oklahoma
- b. Date of judgment of conviction. May 19, 1998
- c. Length of sentence imposed. 180 months
- d. Name of sentencing judge. H. Dale Cook
- e. Nature of the offense(s) for which you were convicted (list all counts). Count

One: Conspiracy to possess with intent distribute  
cocaine base

- f. What was your plea?
- |              |                 |
|--------------|-----------------|
| <u>  X  </u> | Guilty          |
| <u>     </u> | Not Guilty      |
| <u>     </u> | Nolo Contendere |

If you entered a GUILTY plea to one count or indictment and a NOT GUILTY plea to another count or indictment, give details. \_\_\_\_\_

- g. Type of trial.
- |              |            |
|--------------|------------|
| <u>     </u> | Jury       |
| <u>     </u> | Judge Only |

- h. Did you testify at trial?
- |              |     |
|--------------|-----|
| <u>     </u> | Yes |
| <u>     </u> | No  |

- i. Did you appeal from the judgment of conviction?
- |              |     |
|--------------|-----|
| <u>     </u> | Yes |
| <u>  X  </u> | No  |

- j. If you did appeal, answer the following:

1. Name of court. \_\_\_\_\_
2. Result of appeal. \_\_\_\_\_
3. Date of result. \_\_\_\_\_
4. Grounds raised on appeal. \_\_\_\_\_

- k. Other than a direct appeal from the judgment of conviction and sentence, have you filed any other petitions, applications or motions with respect to this judgment in any court, state or federal?
- |              |     |
|--------------|-----|
| <u>     </u> | Yes |
| <u>  X  </u> | No  |

If YES, give the following information:

1. Name of court. \_\_\_\_\_
2. Nature of proceeding. \_\_\_\_\_
3. Grounds raised. \_\_\_\_\_

(i) Did you receive an evidentiary hearing on the petition, application, or motion?

\_\_\_\_\_ Yes  
\_\_\_\_\_ No

(ii) If YES, give the following information:  
Result. \_\_\_\_\_

Date of result. \_\_\_\_\_

l. Have you filed a motion under Section 2255 of Title 28 of the United States Code to vacate, set aside, or correct the sentence imposed?

\_\_\_\_\_ Yes  
X No

If YES, what grounds were presented? \_\_\_\_\_

m. Do you have any petition, application, or appeal pending in any court, state or federal?

\_\_\_\_\_ Yes  
X No

If YES, give the following information:

1. Name of court. \_\_\_\_\_
2. Nature of proceeding. \_\_\_\_\_
3. Date of filing. \_\_\_\_\_
4. Suit Number. \_\_\_\_\_
5. Current status. \_\_\_\_\_

n. Have you been sentenced on more than one count of an indictment, or on more than one indictment in the same court at the same time?

X Yes  
\_\_\_\_\_ No

o. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack in this petition?

\_\_\_\_\_ Yes  
  X   No

If YES, give the following information:

1. Name and location of the court which imposed the sentence to be served in the future. \_\_\_\_\_
2. Length of sentence to be served in the future. \_\_\_\_\_
3. Have you filed or do you contemplate filing any petition attacking the judgment which imposed the future sentence. \_\_\_\_\_

\_\_\_\_\_ Yes  
\_\_\_\_\_ No

**4. PERSONS CHALLENGING A DECISION BY THE PAROLE COMMISSION COMPLETE THIS PART.**

- a. Have you presented this claim or any other claim challenging the Parole Commission's decision to the National Appeals Board or any other available agency for review?

\_\_\_\_\_ Yes  
\_\_\_\_\_ No

If YES, what was the result? \_\_\_\_\_

**5. PERSONS CHALLENGING A STATE DETAINER COMPLETE THIS PART.**

- a. Have you presented this claim or any other claim concerning the legality of the state detainer placed against you to that state's highest court? (NOTE: Interstate Agreement on Detainers)

\_\_\_\_\_ Yes  
\_\_\_\_\_ No

**6. PERSONS CHALLENGING ACTIONS BY THE IMMIGRATION & NATURALIZATION SERVICE COMPLETE THIS PART.**

- a. Have you presented this claim or any other claim concerning the INS's action to the Board of Immigration Appeal?

\_\_\_\_\_ Yes  
\_\_\_\_\_ No

If YES, what was the date and result of the appeal? \_\_\_\_\_

**7. THIS SECTION IS TO BE COMPLETED BY ALL PETITIONERS.**

Specifics of your claim. State concisely and clearly every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. Do not cite case law. Give only factual information.

GROUND ONE The BOP miscalculated the commencement date of  
Petitioner's sentence in violation of Program Statement  
5880.28(b) and 18 U.S.C. § 3585(a).

SUPPORTING FACTS (See Memorandum of Law, p. 4 )

GROUND TWO The BOP failed to give Petitioner post-sentence  
credit in violation of Program Statement 5880.28(b) and  
18 U.S.C. § 3585(a).

SUPPORTING FACTS (same as alleged in Ground One)

GROUND THREE \_\_\_\_\_

SUPPORTING FACTS \_\_\_\_\_

GROUND FOUR \_\_\_\_\_

SUPPORTING FACTS \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct.

June 7 2005  
Date Executed

  
Signature of Petitioner

Date: June 7, 2005

Kevin Cole, 08044-062  
United States Penitentiary, Pollock  
P.O. Box 2099  
Pollock LA 71467

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Clerk of the Court  
United States District Court  
Western District of Louisiana  
300 Fannin Street  
Suite 1167  
Shreveport, LA 71101-3083

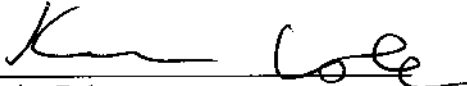
ROBERT H. SHERWELL, CLERK  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT, LOUISIANA

Re: Filing of Petition, 18 U.S.C. § 2241

Dear Clerk:

Enclosed please find a Petition pursuant to 18 U.S.C. § 2241 to be filed on my behalf. Also included are: 1) Memorandum in Support of Writ of Habeas Corpus; 2) application for In Forma Pauperis; 3) Motion for Appointment of Counsel; 4) exhibits; and 5) copies of BOP administrative remedies.

Sincerely,

  
Kevin Cole  
Pro Se